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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 K.S., a minor, by and through her parents, P.S.
9 and M.S.,

No. C 06-07218 SI

10 Plaintiff,

**ORDER VACATING TERMINATION
ORDER**

11 v.

12 FREMONT UNIFIED SCHOOL DISTRICT,

13 Defendant.
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Plaintiffs have filed a motion asking the Court to reconsider its order terminating this action. The motion is scheduled for hearing on July 18, 2008. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter appropriate for resolution without oral argument, and hereby VACATES the hearing.

On February 22, 2008, this Court granted in part and denied in part the parties' cross-motions for summary judgment, remanding the case to the office of administrative hearings for reconsideration in light of the Court's order. The Court then terminated the case. Plaintiffs now ask the Court to reconsider the termination pursuant to Federal Rule of Civil Procedure 60(a). The Court agrees with plaintiffs that the proper course was to stay proceedings rather than dismiss the case. *See Shapiro v. Paradise Valley Unified Sch. Dist. No. 69*, 152 F.3d 1159, 1160 (9th Cir. 1998) ("The rule in this Circuit is that where a court suspends proceedings in order to give preliminary deference to an independent adjudicating body but further judicial proceedings are contemplated, then jurisdiction should be retained by a stay of proceedings, not relinquished by a dismissal.") (internal quotation marks omitted). Therefore, the Court hereby VACATES its order terminating this action. The action is STAYED

1 pending the remand to the office of administrative hearings [Docket No. 179].
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3 **IT IS SO ORDERED.**
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5 Dated: June 26, 2008



SUSAN ILLSTON
United States District Judge